

## REMARKS

In the last Office Action, the Examiner rejected the claims under 35 USC Section 102 and 103 in light of Waytena 6,748,364. The claims are amended to include the limitation of providing receivers that are adapted to passively receive signals and are adapted to upload signals by way of passing through the magnetic field.

The Examiner noted that magnetic signals are well-known, such as smartcards or smart passes used on interstate travel to pass through toll booths. However, it should be noted that the disclosure described in the application and as claimed relates to providing passive receivers that are not adapted to upload information. It has been found by the Applicant that such a system is more feasible and cost effective than providing much more costly bidirectional type pagers. A passive system that operates to upload data only by passing through a magnetic field which induces a current within the receiver is a very cost effective method of uploading data at a fraction of the cost of the embodiments as disclosed in the cited prior art references.

The Examiner cited a publication related to the perception of lines, which is appreciated by the Applicant. After reviewing this interesting disclosure, the Applicant feels that the thrust of this publication bolsters the position and spirit of the claims. Essentially, providing a flow of patrons without having to force them to stand in a line provides a distinct benefit over traditional methods of allocating resources (i.e. an amusement park ride) to a greater number of patrons than the resource can allocate in a given period of time. By providing a first and second interrogator that transmits only a magnetic field to retrieve data from the receivers facilitates removing lines from an attraction without incurring a great deal of expense in investing in the receivers which

are prone to be stolen, lost, broken or otherwise unretrievable to the proprietor of the attraction.

Further, the cited prior art references teach away from the claimed invention bolstering a position of nonobviousness. As recited in *Gillette Co. v. S.C. Johnson & Sons, Inc.*, 919 F.2d 720, 724, 16, USPQ2d 1923, 1927 (Fed. Cir. 1990), the Federal Circuit held that the closest prior art reference "would likely discourage the art worker from attempting the substitution suggested by [the inventor/patentee]." In the present case, the noted prior art discloses various embodiments that rely upon having a portable unit which transmits various data to a central processor. It is important to note that a reference must be taken as a whole where "it is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In *re Wesslau* (1965) 353 F.2d 238, 147 USPQ 391 (CCPA 1965). Therefore, taking the references each as a whole, it is clear that the overall systems require a bidirectional communication-type unit worn by the patron for their systems to operate. Taking these disclosures each on a whole would not teach providing a simpler system having comparable functionality at a more reasonable cost.

Further, the greater simplicity of the receivers which are adapted to provide functionality of passively transmitting signals by the induced current through the magnetic field is nonobvious in light of the more complicated receivers as disclosed in the cited prior art references. As stated in the case *In re Osplack*, "the simplicity of new inventions is oftentimes the very thing that is not obvious before they are made." In *re*

Osplack, 195 F.2d 921, 924, 93 USPQ 306, 308 (CCPA 1952). More specifically, in the present situation, the inexpensive passive receivers provide a simple solution to the cost prohibitive nature of the systems as disclosed in the prior art. By having receivers that are not the standard bidirectional type pagers which transmit data on their own accord, a much more cost effective system is in place having all of the functionality of a proper queue management system at a fraction of the cost of such a system employing bidirectional communication units.

Therefore, it is believed that it is not obvious to incorporate magnetic field induced communication receivers where the prior art teaches away from such simplicity and in fact relies on, as a whole, a more complex system predicated upon bidirectional units worn by the patrons.

If there is any matter which could be expedited by consultation with the Applicant's attorney, such would be welcome. The Applicant's undersigned attorney can normally be reached at the telephone number set forth below.

Signed at Bellingham, County of Whatcom, State of Washington this May 31, 2005.

Respectfully submitted,  
MARK S. PAXTON,

By 

Michael Hughes, Reg. No. 41,084  
Hughes Law Firm, PLLC  
Pacific Meridian Plaza  
4164 Meridian Street, Suite 302  
Bellingham, WA 98226  
(360) 647-1296  
Fax (360) 671-2489